

# **Strategic Developments Under the FLSA**

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## **The Fair Labor Standards Act**

### **The FLSA Creates 5 Major Requirements:**

- 1. Payment of a minimum wage**
- 2. Payment of overtime wages to covered employees for hours worked in excess of 40 per week**
- 3. Equal pay for males and females doing equal work**
- 4. Restrictions on employment of child labor**
- 5. Certain recordkeeping with respect to wage and hours**

## **Focus**

### **Recent Focus of FLSA Actions:**

- **Whether an employee has received all overtime to which he/she is entitled**
- **Whether an employee is properly exempted under White Collar exemptions or as Independent Contractor**
- **Applicability of Motor Carrier Exemption**

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## **Changes to Overtime: Who Will Qualify for the Overtime Exemption?**

- **Three Traditional White Collar Exemptions: Executive, Administrative and Professional**
  - All require salary of not less than \$455 per week.
  - Primary duties tests for each.
- **Highly Compensated Employee Exemption**
  - Total annual compensation of at least \$100,000.00.
  - Customarily and regularly perform at least one primary duty of a White Collar exemption.
- **Department of Labor Released new “Final Rule” on salary requirements May 18, 2016**

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## Changes to Overtime: Who Will Qualify for the Overtime Exemption? – Cont.

- **Three Major Changes:**

1. Raised the salary level for exempt white-collar employees from \$455 per week (\$23,660 per year) to **\$913 per week (\$47,476 per year)**.
2. Raised the total annual compensation needed for the highly compensated employee (HCE) exemption from \$100,000 to **\$134,004**.
3. Automatic raises in salary and compensation levels every three years to maintain the levels at the 40<sup>th</sup> percentile of earnings of full-time salaried workers in the lowest wage Census Region for the white-collar exemptions, and 90<sup>th</sup> percentile for the highly compensated employee exemption.

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## Changes to Overtime: Who Will Qualify for the Overtime Exemption? – Cont.

- **Importantly, the Final Rule made no changes to the “duties” tests for exempt employees.**
- **Final Rule was set to go into effect on December 1, 2016....**

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